

REMARKS

Claims 1-12 are pending. Pursuant to the Examiner's suggestion, applicant has amended claim 9 to recite "as compared to yeast cells not having been so cultured." This amendment is further discussed below in the context of the Examiner's rejections. No new matter is introduced by the amendment.

Rejection under 35 U.S.C. § 112, second paragraph

The Examiner has rejected claim 9 and claims dependent therefrom as being indefinite. Specifically, the Examiner states that claim 9 is not clear on whether the plurality of yeast cells in the presence of an alternating electric field has been modified. The Examiner suggests that, to indicate that the yeast cells have been modified, applicant insert in claim 9, after the term "subject," the phrase "as compared to yeast cells not having been so cultured."

Applicant has amended claim 9 accordingly.

Double patenting rejections

Claims 1-12 stand rejected, under the judicially created doctrine of obviousness-type double patenting, as being unpatentable over claims 1-9 of United States Patent 6,709,849 ("the '849 patent"). Claims 1-12 stand provisionally rejected, also under the judicially created doctrine of obviousness-type double patenting, as being unpatentable over claims 1-10 of copending United States Application 10/717,143 ("the '143 application"), claims 1-13 of copending United States Application 10/717,136 ("the '136 application"), and claims 1-12 of copending United States Application 10/717,132 ("the '132 application").

Ultra Biotech Limited, the assignee of this application, files herewith a terminal disclaimer under 37 C.F.R. § 1.321(b) and (c), disclaiming the terminal portion of any patent granted on this application which would extend beyond the

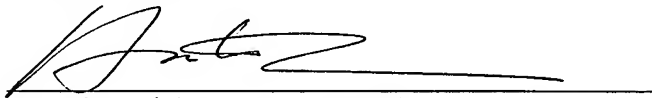
Appl. No. 10/717,133
Amdt. dated March 1, 2005
Response to December 1, 2004 Office Action

expiration date of the '849 patent, or any patent to be granted on the '143, '136 or
'132 application. This rejection can now be withdrawn.

CONCLUSION

Applicant respectfully submits that the application as amended is in
condition for allowance, and early, favorable action is solicited.

Respectfully submitted,



Z. Ying Li (Reg. No. 42,800)

Attorney for Applicant

Haitao Sun (Reg. No. 48,546)

Agent for Applicant

Fish & Neave IP Group

Ropes & Gray LLP

Customer No. 1473

1251 Avenue of the Americas

New York, New York 10020-1104

Tel.: (212) 596-9000